

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Richard W. Rothfus,**

Petitioner-Appellant,

v.

**Warren County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 11-91-0268  
Parcel No. 01-000-06-0224**

On March 13, 2012, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Richard W. Rothfus was self-represented. County Attorney John Criswell is counsel for the Board of Review. County Assessor Brian Arnold represented it at hearing. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Richard W. Rothfus, owner of a residentially classified property located at 13840 County Line Road, Carlisle, Iowa, appeals from the Warren County Board of Review regarding his 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$47,000 in land value and \$147,200 in improvement value for a total assessment of \$194,200.

The property record card reports that the subject property is a one-story,<sup>1</sup> single-family residence built in 1960. The improvements include 1400 square feet of above-grade finish; a full, unfinished basement; and two, one-car attached garages on either side of the improvements. One

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<sup>1</sup> The property record card notes the subject is a brick home, however at hearing photographic evidence demonstrated only had a partial brick veneer.

garage is reported as having 448 square feet and the other is reported as being 374 square feet with a dirt floor.<sup>2</sup> The improvements are reported as below normal condition and the property has a 4+5 grade, which indicates mid- to low-average construction. Additionally, there are 189 square-feet of brick patio and a 3584 square-foot metal pole building built in 1971. The site is 0.97 acres.

Rothfus protested his assessment to the Warren County Board of Review. On the protest, he contended the subject property was assessed for more than the value authorized by law under section 441.37(1)(b). He claimed the actual value was \$70,000, allocated \$25,000 in land value and \$45,000 in improvement value.

The Board of Review denied the protest.

Rothfus then appealed to this Board reasserting his claim of over-assessment.

Rothfus provided an appraisal completed by Julie A. Owen of Rally Appraisal, LLC, West Des Moines, Iowa. Owen completed the appraisal for “asset valuation for dissolution of marriage.” It had an effective date of value of November 9, 2010. Owen’s appraisal reports only one, one-car attached garage and an enclosed porch. This contradicts the property record card, which indicates the subject has two, one-car attached garages and no enclosed porch areas.

Owen developed only the sales comparison approach to value and included three properties for comparison. All three comparable properties are located between 7.65 to 14.33 miles from the subject property. We note that when valuing rural properties, it is not unusual to consider sales located farther than typical from the subject property.

All three sales occurred between April and September 2010. The sales prices ranged from \$70,000 to \$78,750. After making adjustments for differences, Owen reports an adjusted range of \$69,450 to \$81,380, and concludes a final opinion of value of \$70,000.

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<sup>2</sup> At hearing, it was noted that one of the garages was converted into an enclosed porch.

Owen reports that all three sales had sold recently at a sheriff sale as the result of foreclosure.

The previous sales prices (Sheriff Sales) and subsequent sale prices considered by Owen are as follows:

	Address	Sales Price considered by Owen	Sale Date	Prior Sale	Prior Sale Date
Comp 1	205 George St	\$70,000	4/2010	\$157,133	7/2009
Comp 2	5241 NE Mitchell Dr	\$72,500	8/2010	\$108,154 <sup>3</sup>	2/2010
Comp 3	7847 Kennedy	\$78,750	10/2010	\$179,957	6/2009

In arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). Because all of the sales Owen considered are “bank sales” as the result of foreclosure and were not adjusted for this fact, we do not give them any consideration in a market value claim. Therefore, we do not give any weight to the Owen appraisal.

Rothfus also provided three color photographs of the exterior of his home. The photos clearly show the subject property is not an all brick home. Additionally, the photographs indicate significant depreciation and deferred maintenance of the roof and siding. A third photograph shows the utility building. While the structure itself appears to be in normal condition, the sliding doors of the building are in definite need of paint and the building clearly has a dirt floor.

Based upon these photographs and Rothfus’ testimony about the plumbing being in need of repair and issues with the well, we find the property is properly identified as below normal on the property record card. However, we also note Owen’s appraisal included many interior photographs of the subject property. Based on those photographs the interior, overall, appears to be in at least normal

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<sup>3</sup> The property record card for this comparable does not report the February sale or sale price. Although it does note the August 2010 sale, which was considered by Owen, was from the Federal National Mortgage Association. Owen reported a February 2010 sale of \$108,154 in her appraisal report.

condition. Given the difference between the interior and exterior of the subject property we cannot further lower the condition, despite Rothfus' desire, without further inspection.

This Board notes Rothfus has not allowed the assessor's office to inspect his property. He explained to this Board that he did not believe it was necessary. However, Rothfus was also critical of the assessor's office for not recognizing his home was not entirely brick, that there were items of disrepair, and that one of the garages had been converted to living or porch area. Because of Rothfus' refusal to allow an inspection, he has presented the Assessor and this Board with a dilemma. Even if we would believe there may be reason to alter the condition rating, size, or the amenities of the subject property, without on-site verification these changes can not be properly and credibly considered.

Lastly, Rothfus submitted a residential comparative market study (CMA) of sold properties. This CMA was provided to Rothfus by a friend who is a real estate agent; however it was submitted with limited explanation and no identified author. The CMA lists eleven properties in Warren County that sold between May 2010 and November 2011. The sales prices range from \$22,000 to \$79,900. This is compared to the 2011 assessed values for the properties, written beside each one, which range from \$86,000 to \$177,300. The CMA provides information such as the address, total living area (TLA), garages, number of bedrooms/bathrooms, year built and style of the home. There is no information about the condition of the properties or the conditions of the sales.

Two properties listed on the CMA also have one-page property record card print outs attached. We note that both of these properties, 8167 Nevada Street and 5926 160th Avenue, sold as the result of foreclosure, therefore making them abnormal transactions. Because we do not know the condition of sale for the remaining properties on the CMA and because these properties are unadjusted for differences in style, age, and size, and site appeal, we give it no consideration.

The Board of Review also provided an appraisal for consideration. The appraisal was completed by Shauna Elmer-Gehring of Professional Real Estate Appraisal, Waukee, Iowa. Elmer-

Gehring's appraisal had an effective date of January 1, 2011, and concluded an opinion of value of \$190,000. Elmer-Gehring's appraisal was based on an exterior-only inspection; however, in some areas the appraisal incorrectly reports that she actually inspected the property. Both Warren County Assessor Brian Arnold and Rothfus noted there was no inspection of the subject property.

Elmer-Gehring only considered the sales comparison approach and assumed the subject property was of average condition and quality. Additionally, she assumed the property had two, one-car attached garages when previous testimony contradicts this information. Gehring considered six comparable sales located within 0.54 to 9.19 miles of the subject property. Five sales are located within roughly 4.5 miles of the subject. Five sales occurred between February and September 2010 and one sale occurred in October 2009. All are one story homes and situated on 0.37 to 5.28 acres. The majority of the sales have site sizes of roughly 1 to 2 acres.

Rothfus' testimony preceded Arnold's presentation of the appraisal. At hearing, Arnold acknowledged that based upon Rothfus' testimony he believed Gehring's appraisal, which made assumptions about the condition that are now known to be suspect, was likely "high" and not representative of the actual condition of the subject property. As such, we give this appraisal limited consideration.

Because Rothfus has not permitted an on-site inspection, this Board is in a difficult position as we are not convinced the property is correctly valued because we believe measurements may be incorrect and all forms of obsolescence may not have been properly applied.

The only evidence in the record that clearly indicates an error resulting in over assessment is that the subject does not have an all brick exterior. At this Board's request, the Assessor's Office has provided the value of the subject improvements correcting the exterior siding. Correcting for this listing error, the improvement value is reduced to \$140,600. This correction indicates a market value of \$187,600 allocated as \$47,000 in land value and \$140,600 in improvement value.

Based upon the foregoing, we find sufficient evidence has been presented to support a claim of over-assessment.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Rothfus offered an appraisal to establish the market value of his property. However, the

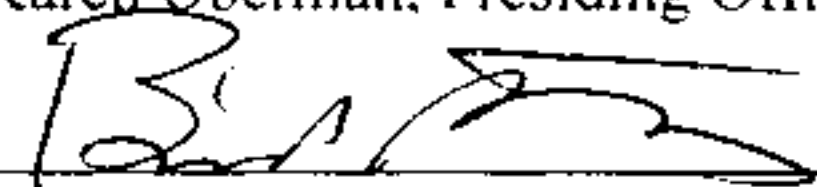
appraisal was based exclusively on sales that occurred as the result of foreclosure and are, therefore, considered abnormal under Iowa Code. Likewise, the Board of Review offered an appraisal, but its scope of work was limited to an exterior-only inspection and relied on assumptions that were later found to be questionable after testimony was presented. Nevertheless, this appraisal suggested a slight over-assessment of the subject property. The only evidence in the record that can be verified is that the subject property does not have a full brick exterior. This error results in over-assessment of the property. Correcting for this error, we find the market value of the subject property is, \$187,600, allocated as \$47,000 in land value and \$140,600 in improvement value.

THE APPEAL BOARD ORDERS the assessment of Richard W. Rothfus' property located at 13840 County Line Road, Carlisle, Iowa, be modified to a total value of \$187,600, as of January 1, 2011.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 3rd day of May, 2012.

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5/3</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	